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August 14, 2008

BY FACSIMILE

Hon. Debra Freeman
United States Magistrate Judge
United States District Court
500 Pearl Street
New York, New York 10007

Re: Alan Newton v. City of New York, et al., 07-CV-6211 (SAS) (DF)

Your Honor:

We write in order to request (1) an adjournment of the telephone conference now tentatively scheduled for August 19, at 11:00 a.m., and (2) an extension of the deadline by which the City must respond to plaintiff's third request for documents, and Requests 26 and 45 of plaintiff's first request for documents. We have contacted plaintiff's counsel to ascertain his position on these requests and availability for any adjourned conference date, but counsel has not responded.

Conference date. The undersigned respectfully requests an adjournment of the August 19, 2008, telephone conference, because I am traveling that day to Gloucester, Massachusetts, for the deposition of a chronically ill former police detective in the matter *Barry Gibbs v. Louis Eppolito, Sr.*, 05-CV-5112 (ILG) (VV). The witness lives in Florida most of the year but will be in the Northeastern United States until September 14, 2008, and I am scheduled to begin a trial in the matter *Harwinder Vilkhu v. City of New York*, 06-CV-2095 (CPS) on September 15, 2008, the day after the witness is expected to return to Florida. (I am also planning to be on vacation from Monday, August 25, through Labor Day.) Accordingly, there is now a relatively small window of opportunity to produce the officer for his deposition, and all counsel and the witness are available on August 19, 2008. I am available for any adjourned telephone conference on the following dates and times: August 15, before 2:00 p.m., August 18, before

2:00 p.m., August 20, at any time, or Sept. 4 or 5, at any time. Please accept my apology if this request causes any inconvenience.

Extension to produce documents. Defendants respectfully request an extension of three weeks, to September 5, 2008, to provide written responses, objections and responsive documents to plaintiff's third document request, and Requests 26 and 45 of plaintiff's first document request. Previously, the parties had agreed to a deadline of August 15, 2008, for production, and the Court "so ordered" the agreed-upon deadline (see DE 34). At the time I agreed to that deadline, I did not realize that the commanding officer of the Property Clerk division, the person with the most knowledge concerning the areas covered by the document requests, would be on vacation until this week. Accordingly, I have not had the opportunity to confer with him yet about the document requests. In addition, as noted above, I will be out of the office from August 25, through Labor Day. There would not appear to be any prejudice to plaintiff by reason of this request, since (among other things) Judge Scheindlin has extended the fact discovery deadline to November 30, 2008, and since defendants already have produced well in excess of six thousand (6,000) pages of documents in response to plaintiff's voluminous document requests.

Respectfully submitted,



Arthur G. Larkin (AL 9059)
Assistant Corporation Counsel

AGL/m

cc: John F. Schutty, Esq. (by facsimile)

The parties are directed to contact my chambers to set a new conference date. The requested extension for the production of documents referred to herein is granted - no further extensions.

SO ORDERED: DATE: 8/15/08



DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE